

PETER P. FERGUSON.

APRIL 2, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MINOR, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 6431.]

The Committee on Claims, to whom was referred the bill (H. R. 6431) to pay Peter P. Ferguson \$1,765 and interest thereon, respectfully make the following report:

The following facts are established by conclusive evidence, and are undisputed, that by the act of Congress June 3, 1856 (11 Stat. L., p. 20), there was granted by the United States to the State of Wisconsin for railroad purposes alternate sections for 6 miles on each side of the proposed road; by act of Congress May 5, 1864 (13 Stat. L., p. 66), a similar grant was made for similar purposes of alternate sections for 10 miles on each side of the proposed road. The material part of the law is found in the first and fourth sections of the act of June 3, 1856. The Wisconsin Central Railroad Company, operating a line of railroad through the State of Wisconsin, being entitled to a part of said grant, was awarded lands by the State of Wisconsin, through its governor. The State of Wisconsin insisted it had title to the same by virtue of the statutes cited, which included the lands hereinafter particularly described, and after said railroad company had obtained the title to said lands they sold the pine timber standing upon a part of the said lands, more particularly described as follows: The SW. $\frac{1}{4}$ of the SW. $\frac{1}{4}$, the SW. $\frac{1}{4}$ of the SE. $\frac{1}{4}$, and the SW. $\frac{1}{4}$ of the NE. $\frac{1}{4}$ of section 5, township 45 north, of range 4 west, Ashland County, Wis., to one Edward Rutledge, for a valuable consideration; that said lands were a part of said grant, and thereafter the said Edward Rutledge, for a valuable consideration, conveyed his title to said timber, in the fall of 1889, to the said Peter P. Ferguson, and the said Peter P. Ferguson, during the winter and logging season of 1889 and 1890, cut and removed the timber from the lands, hereinbefore particularly described, into saw logs, and sold said logs for a valuable consideration, and the purchaser of the same manufactured said logs into lumber, and thereafter the United States brought an action of replevin in the circuit court of the United States for the western district of Wisconsin on the 10th day of June, 1891, against the said Peter P. Ferguson and others as defendants, to recover the lumber so cut from said lands, or the value thereof, and thereafter such further proceedings were had in said action that a judgment was rendered in favor of the United States and against the said Peter P. Ferguson and his codefendants on the 24th day of December, 1892, for the sum of \$1,600, being the value of the lumber

so cut and removed from said lands by said Peter P. Ferguson. As appears unquestionably from the proof, the sum of \$165, was used to make necessary defense to said action; and during the summer of 1891 the said Peter P. Ferguson was arrested, in an action wherein the United States was plaintiff, and taken by the United States marshal to Madison, Wis., for cutting said timber, and then and there held to appear at the next regular term of the United States court for the western district of Wisconsin, and from time to time said criminal proceedings were continued until on or about the 2d day of February, 1893. Said Peter P. Ferguson paid said judgment in full.

In the meantime one Forsythe, claiming that said lands were subject to public entry, made application to enter the same, and the title to the lands conveyed by the State of Wisconsin, through its governor, became involved, and the said Forsythe took steps to obtain said lands from the United States, and was confirmed in his right by the Secretary of the Interior. The Wisconsin Central Railroad Company brought an action of ejectment in the circuit court of the United States for the western district of Wisconsin for the purpose of determining its title to said lands, and the case finally reached the Supreme Court of the United States, and will be found reported as Wisconsin Central Railroad Company *v.* Forsythe (vol. 159, p. 46), and the opinion thereon was filed June 3, 1895; and in that case it was decided by the Supreme Court of the United States that the Wisconsin Central Railroad Company obtained the title to said lands and was the owner of the lands hereinbefore particularly described under said grant, thereby showing and proving that the said Peter P. Ferguson obtained the legal title to said timber by his purchase aforesaid, and that the action of replevin brought against him was wrongly decided, and that he was unlawfully arrested for cutting said timber; and he asks the United States now to return to him the money that he paid on the judgment and his necessary costs in defending said action, all of which at this time aggregates the sum of \$1,765.

Your committee, therefore, on account of the injustice done Mr. Ferguson, and the fact that the United States has been using his money and not entitled to retain the same, would respectfully recommend the passage of the bill, as amended, and the payment of the amount. All the facts hereinbefore set forth are substantiated by evidence, and by certified copies of the record of the said action from the clerk of the United States court at Madison, Wis., including the payment of the said judgment.

Amend by striking out all after the word "dollars," in line 5 of the printed bill.

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